BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

RAYMOND K. BEAVER Claimant	}
VS.	Dealest No. 202 204
A-LERT CORPORATION Respondent) Docket No. 202,301
AND	{
THE HOME INSURANCE COMPANY Insurance Carrier	}

ORDER

Respondent requests the Appeals Board to review the Order for Compensation entered by Administrative Law Judge Floyd V. Palmer dated November 6, 1995.

ISSUES

Respondent raises the single issue of whether claimant met with personal injury by accident that arose out of and in the course of his employment with the respondent on May 22, 1995.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The issue raised by the respondent is one subject to review by the Appeals Board from a preliminary hearing order. See K.S.A. 44-534a(a)(2).

After a review of the preliminary hearing transcript and exhibits attached thereto, the Appeals Board affirms the Administrative Law Judge's Order for Compensation that granted claimant's request for temporary total disability benefits, payment of past medical expenses and future medical treatment. Claimant established through his testimony that he injured his lower left groin on May 22, 1995 as he was prying with a seven (7) foot pry bar, while working as a millwright for the respondent, in Fremont, Nebraska. Previously, on March 13, 1995, claimant had surgery to repair a double hernia that he had suffered while employed by the respondent.

Claimant returned to Emporia, Kansas, on May 23, 1995 and sought medical treatment at Newman Memorial Emergency Room on May 24, 1995. He was seen by T.P. Harris, D.O., who had performed the double hernia surgery in March of 1995. The medical records admitted at the preliminary hearing established that the claimant gave Dr. Harris a history of feeling discomfort in his left groin after lifting and pulling at work. Dr. Harris

diagnosed a recurrence of a left inguinal hernia. On June 2, 1995, Dr. Harris surgically repaired the recurrent hernia.

Respondent had claimant's supervisor, Sean Carlton, testify in an effort to rebut the claimant's testimony. Mr. Carlton testified that claimant complained about pain in his left stomach area, but that the claimant had notified him of the pain a week earlier than May 23, 1995. Mr. Carlton also testified that the reason that the claimant left Fremont, Nebraska, and was no longer employed by the respondent, was because of a disagreement between him and the claimant.

The Appeals Board finds that the respondent's representative's testimony does not rebut the testimony of the claimant and the documentation contained in the medical records admitted by the claimant. The Appeals Board finds that the claimant has established that it is more probably true than not that he suffered a personal injury by accident that arose out of and in the course of his employment with the respondent.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order for Compensation of Administrative Law Judge Floyd V. Palmer entered on November 6, 1995, should be, and is hereby, affirmed in all respects.

Dated this day of January 1996.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: Michael G. Patton, Emporia, Kansas Gregory D. Worth, Lenexa, Kansas Floyd V. Palmer, Administrative Law Judge Philip S. Harness, Director

IT IS SO ORDERED.